



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB0980

Introduced 2/3/2005, by Rep. Richard T. Bradley - William Delgado - Cynthia Soto

SYNOPSIS AS INTRODUCED:

725 ILCS 5/110-7

from Ch. 38, par. 110-7

Amends the Code of Criminal Procedure of 1963. Changes the percentage of distribution of the bail bond security, after the conditions of the bail bond have been performed and the accused has been discharged from all obligations in the cause, to 85% (instead of 90%) of the sum which had been deposited shall be returned to the accused and 15% (instead of 10%) shall be retained as bail bond costs. Effective immediately.

LRB094 03600 LCB 33604 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning bail.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Code of Criminal Procedure of 1963 is
5 amended by changing Section 110-7 as follows:

6 (725 ILCS 5/110-7) (from Ch. 38, par. 110-7)

7 Sec. 110-7. Deposit of Bail Security.

8 (a) The person for whom bail has been set shall execute the
9 bail bond and deposit with the clerk of the court before which
10 the proceeding is pending a sum of money equal to 10% of the
11 bail, but in no event shall such deposit be less than \$25. The
12 clerk of the court shall provide a space on each form for a
13 person other than the accused who has provided the money for
14 the posting of bail to so indicate and a space signed by an
15 accused who has executed the bail bond indicating whether a
16 person other than the accused has provided the money for the
17 posting of bail. The form shall also include a written notice
18 to such person who has provided the defendant with the money
19 for the posting of bail indicating that the bail may be used to
20 pay costs, attorney's fees, fines, or other purposes authorized
21 by the court and if the defendant fails to comply with the
22 conditions of the bail bond, the court shall enter an order
23 declaring the bail to be forfeited. The written notice must be:
24 (1) distinguishable from the surrounding text; (2) in bold type
25 or underscored; and (3) in a type size at least 2 points larger
26 than the surrounding type. When a person for whom bail has been
27 set is charged with an offense under the "Illinois Controlled
28 Substances Act" which is a Class X felony, the court may
29 require the defendant to deposit a sum equal to 100% of the
30 bail. Where any person is charged with a forcible felony while
31 free on bail and is the subject of proceedings under Section
32 109-3 of this Code the judge conducting the preliminary

1 examination may also conduct a hearing upon the application of
2 the State pursuant to the provisions of Section 110-6 of this
3 Code to increase or revoke the bail for that person's prior
4 alleged offense.

5 (b) Upon depositing this sum and any bond fee authorized by
6 law, the person shall be released from custody subject to the
7 conditions of the bail bond.

8 (c) Once bail has been given and a charge is pending or is
9 thereafter filed in or transferred to a court of competent
10 jurisdiction the latter court shall continue the original bail
11 in that court subject to the provisions of Section 110-6 of
12 this Code.

13 (d) After conviction the court may order that the original
14 bail stand as bail pending appeal or deny, increase or reduce
15 bail subject to the provisions of Section 110-6.2.

16 (e) After the entry of an order by the trial court allowing
17 or denying bail pending appeal either party may apply to the
18 reviewing court having jurisdiction or to a justice thereof
19 sitting in vacation for an order increasing or decreasing the
20 amount of bail or allowing or denying bail pending appeal
21 subject to the provisions of Section 110-6.2.

22 (f) When the conditions of the bail bond have been
23 performed and the accused has been discharged from all
24 obligations in the cause the clerk of the court shall return to
25 the accused or to the defendant's designee by an assignment
26 executed at the time the bail amount is deposited, unless the
27 court orders otherwise, 85% ~~90%~~ of the sum which had been
28 deposited and shall retain as bail bond costs 15% ~~10%~~ of the
29 amount deposited. However, in no event shall the amount
30 retained by the clerk as bail bond costs be less than \$5. Bail
31 bond deposited by or on behalf of a defendant in one case may
32 be used, in the court's discretion, to satisfy financial
33 obligations of that same defendant incurred in a different case
34 due to a fine, court costs, restitution or fees of the
35 defendant's attorney of record. In counties with a population
36 of 3,000,000 or more, the court shall not order bail bond

1 deposited by or on behalf of a defendant in one case to be used
2 to satisfy financial obligations of that same defendant in a
3 different case until the bail bond is first used to satisfy
4 court costs and attorney's fees in the case in which the bail
5 bond has been deposited and any other unpaid child support
6 obligations are satisfied. In counties with a population of
7 less than 3,000,000, the court shall not order bail bond
8 deposited by or on behalf of a defendant in one case to be used
9 to satisfy financial obligations of that same defendant in a
10 different case until the bail bond is first used to satisfy
11 court costs in the case in which the bail bond has been
12 deposited.

13 At the request of the defendant the court may order such
14 85% ~~90%~~ of defendant's bail deposit, or whatever amount is
15 repayable to defendant from such deposit, to be paid to
16 defendant's attorney of record.

17 (g) If the accused does not comply with the conditions of
18 the bail bond the court having jurisdiction shall enter an
19 order declaring the bail to be forfeited. Notice of such order
20 of forfeiture shall be mailed forthwith to the accused at his
21 last known address. If the accused does not appear and
22 surrender to the court having jurisdiction within 30 days from
23 the date of the forfeiture or within such period satisfy the
24 court that appearance and surrender by the accused is
25 impossible and without his fault the court shall enter judgment
26 for the State if the charge for which the bond was given was a
27 felony or misdemeanor, or if the charge was quasi-criminal or
28 traffic, judgment for the political subdivision of the State
29 which prosecuted the case, against the accused for the amount
30 of the bail and costs of the court proceedings; however, in
31 counties with a population of less than 3,000,000, instead of
32 the court entering a judgment for the full amount of the bond
33 the court may, in its discretion, enter judgment for the cash
34 deposit on the bond, less costs, retain the deposit for further
35 disposition or, if a cash bond was posted for failure to appear
36 in a matter involving enforcement of child support or

1 maintenance, the amount of the cash deposit on the bond, less
2 outstanding costs, may be awarded to the person or entity to
3 whom the child support or maintenance is due. The deposit made
4 in accordance with paragraph (a) shall be applied to the
5 payment of costs. If judgment is entered and any amount of such
6 deposit remains after the payment of costs it shall be applied
7 to payment of the judgment and transferred to the treasury of
8 the municipal corporation wherein the bond was taken if the
9 offense was a violation of any penal ordinance of a political
10 subdivision of this State, or to the treasury of the county
11 wherein the bond was taken if the offense was a violation of
12 any penal statute of this State. The balance of the judgment
13 may be enforced and collected in the same manner as a judgment
14 entered in a civil action.

15 (h) After a judgment for a fine and court costs or either
16 is entered in the prosecution of a cause in which a deposit had
17 been made in accordance with paragraph (a) the balance of such
18 deposit, after deduction of bail bond costs, shall be applied
19 to the payment of the judgment.

20 (Source: P.A. 92-16, eff. 6-28-01; 93-371, eff. 1-1-04; 93-760,
21 eff. 1-1-05.)

22 Section 99. Effective date. This Act takes effect upon
23 becoming law.